



July 19, 2019

Via ECFS

Marlene H. Dortch
Secretary, Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

Re: *Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. §160(c) to Accelerate Investment in Broadband and Next-Generation Networks*; WC Docket No. 18-141; *Rural Digital Opportunity Fund*; WC Docket No. 19-126; *Connect America Fund*; WC Docket No. 10-90; *Establishing the Digital Opportunity Data Collection*; WC Docket No. 19-195; *Modernizing the FCC Form 477 Data Program*; WC Docket No. 11-10.

Dear Ms. Dortch:

On July 17, 2019, USTelecom CEO Jonathan Spalter and I met with Commissioner O’Rielly and his Wireline Legal Advisor Arielle Roth and on July 19, 2019 with Commissioner Carr and his Chief of Staff Jamie Susskind. During the meetings we requested support for nationwide forbearance from analog voice-grade cooper loops under Section 251(c)(3) of the Act and the Commission’s rules and avoided cost resale obligations under Section 251(c)(4) of the Act and the Commission’s rules. We explained that the record demonstrates that forbearance from these monopoly-era mandates is consistent with the public interest and that maintaining the requirements, relevant only to voice service in a highly competitive market and applicable to carriers found to no longer possess market power and declared nondominant in 2016,¹ are not necessary to protect consumers or to ensure that rates are just and reasonable.² Thus, the forbearance standard is easily satisfied.

Given the highly competitive voice market, the USTelecom representatives indicated that a lengthy transition period before sun setting the avoided cost resale obligations is unnecessary. Therefore, a transition period, if any, should be no more than 18 months. We disputed claims that a longer transition period (up to five years) to ensure that service for certain customers, such as government agencies, is necessary. While competitors will no longer have the benefit of using an outdated and market-distorting regulatory tool in their negotiations with incumbent carriers, that will not translate to a negative impact on existing customers. We explained that ILECs will continue to offer resold service on commercial terms – the type of resale that

¹ See Declaratory Ruling, Second Report and Order, and Order on Reconsideration, WC Docket No. 13-3, *USTelecom Petition for Declaratory Ruling That Incumbent Local Exchange Carriers Are Non-Dominant in the Provision of Switched Access Services*, rel. Jul. 15, 2016, para. 21.

² See Letter from Patrick Halley, Senior Vice President, USTelecom, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-141 (filed June 20, 2019).

currently accounts for about 85 percent of all resale arrangements. And customers that currently require TDM service will continue to have options following forbearance, whether from CLECs purchasing wholesale offerings, alternative competitive carriers, or from the ILECs themselves, whose prices will be constrained by fierce competition.

During the meetings, we also provided a high-level summary of some of the preliminary findings from the Broadband Mapping Consortium Pilot Project that USTelecom is leading along with its partners ITTA and WISPA.³ Notably, preliminary analysis indicates that structure counts per census block in the pilot states versus 2011 census housing structure data were the same only 36 percent of the time.⁴ Nearly 30 percent of the census blocks have location counts higher than census 2011 data, while just over 35 percent had fewer locations than the census data. Additionally, on an individual census block basis there are over 4,000 census blocks where the data indicates there are 100 percent more structures than the 2011 census data and more than 13,000 census blocks where the structure count was between 81 and 100 percent less than the 2011 census count. As a result, we described the importance of the Commission moving forward as quickly as possible to adopt a national data set of broadband serviceable locations consistent with USTelecom's Broadband Serviceable Location Fabric (BSLF) proposal. Specifically, we urged the Commission, via the Universal Service Administrative Corporation in coordination with relevant Commission Bureaus and Offices, to move towards the adoption of the BSLF at the same time that it moves forward with the establishment of a new shapefile broadband availability reporting capability. We also requested that the Commission make all possible efforts to ensure that the bulk of Rural Digital Opportunity Fund dollars are efficiently targeted based on the improved broadband availability data that will be available once the BSLF is complete.

Please direct any questions to the undersigned.

Sincerely,

/s/ Patrick R. Halley

Patrick R. Halley
Senior Vice President, Policy & Advocacy
USTelecom – The Broadband Association

cc: Commissioner Brendan Carr
Commissioner Michael O'Rielly
Jamie Suskind
Arielle Roth

³ See Letter from B. Lynn Follansbee, Vice President, Policy & Advocacy, USTelecom to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 11-10, 10-90 (May. 28, 2019); Letter from B. Lynn Follansbee, VP Policy & Advocacy, USTelecom to Marlene H. Dortch, Secretary, FCC, WC Dockets 10-90, 11-10, 19-126 (Jul. 1, 2019) (*July 2019 Ex Parte*).

⁴ See July 2019 Ex Parte.